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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Bruce Ahrens

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EXAMINER

ROBERTSON, DAVID

ART UNIT

PAPER NUMBER

3623

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/812,484	<b>Applicant(s)</b> AHRENS ET AL.	
	<b>Examiner</b> Dave Robertson	<b>Art Unit</b> 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 77-78, 80-83, 87, and 88 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 77-78, 80-83, 87, and 88 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This is a Non-final office action after the filing of a Request for Continuation (RCE) on 5/27/2008. Claims 77-78, 80-83, 87, and 88 are pending.

#### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/27/2008 has been entered.

#### ***Response to Amendment***

3. Applicant cancels claims 1-76, 79, and 84-86 and adds new claims 87 and 88.

#### ***Response to Arguments***

4. Applicant's arguments filed 5/27/2008 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 77-78, 80-83, 87, and 88 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 81 similarly recites *a portable computer...and...displaying on said portable computer, a first screen...and further displaying on said portable computer, a second screen*. However, the claimed device to which the *displaying* is directed is disclosed as having one screen (as is typical for a portable computing device), therefore the *displaying* to a *second screen* is unclear. Similarly, claim 77 which recites *a portable device...comprising...a screen device...and...displaying on said portable device, a first screen...* suggests a second screen where there is but one. Claims 78, 80, 81-83, 87, and 88 depend from claims 77 and 81 and are similarly deficient.

For the purposes of examination, the limitations will be interpreted as *displaying on a portable device/computer, a first window...* and a *second window*, the term *window* being understood in the art to be a rectangular area on a computer screen or display screen of a portable device into which information may be separately displayed.

Appropriate clarification or correction is requested.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 77-78 are rejected under 35 U.S.C. 102(e) as being anticipated by Richardson (US Pat. No. 5,867,823).

Specifically, with respect to the claims presented:

Claim 77

Richardson teaches *a portable device for recording and evaluating a subordinate's work, comprising a user interface for receiving information, an information storage device, a screen device for displaying information; and a processor coupled to said user interface, said information storage device, and said screen device (see Figure 1 and column 2 from line 57); said processor configured for storing, on said portable device data associated with a plurality of job elements wherein each said plurality of job elements comprises a set of job methods to be performed by a subordinate over the course of a work session (see column 2 from line 29, inter alia); displaying on said portable device, a first screen associated with a first of said job elements, said first screen displaying a plurality of job methods to be performed by said subordinate, said particular set of job methods corresponding to said first job element (see column 3 from line 39 to column 4 line 42)); receiving input comprising a measurement indicating that said subordinate has failed to comply with at least one job method of said*

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*particular set plurality of job methods (see column 4 line 26); and responsive to said input indicating that said measurement exceeds a predetermined threshold for said at least one job method, altering a said display of said at least one job method on said first screen wherein said first screen comprises a concurrent display of said particular set of job methods (see column 5 from line 42: using Richardson as fully described for the application of supermarket or other retail center maintenance, producing an audible sound and producing a message on the display when the time limit of two hours for the performance of the regular maintenance tasks expires).*

Claim 78

Richardson teaches *wherein said data stored on said portable device further comprises written descriptions of said particular set of job methods (see column 3 from line 49).*

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 81-83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richardson (US Pat. No. 5,867,823).

Claim 81 recites a method performing steps corresponding to the functions claimed for the device of claim 77, and is similarly rejected as explained above for claim 77, over the respective functional teachings of Richardson; however, Richardson does not expressly teach performing the method twice on a portable device capable of displaying two windows.

Claim 81 recites performing steps for using the portable device: *displaying*, *receiving* input, and *indicating* measurements of job methods on a *first* window (see 112(2) above for interpretation taken for first and second “screens”) for a *first* job at a *first* work location, then performing the steps a second time *displaying*, *receiving*, and *indicating* on a *second* window for a *second* job at a *second* job location. There is no apparent distinction between the performing of the first set of steps for the first job method and the performing of the second set of identical steps for a second job method other than display of the first and second job methods in first and second windows.

Mere duplication of parts has no patentable significance unless a new and unexpected result is produced. *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960). Analogously, mere repetition of steps or a set of steps, as in the present case, that produces no new or

unexpected result, is not patentably significant in view of a teaching for performing the method once. See MPEP 2144.04 VI (B).

In the present case, the invention performs the same method twice on a device capable of displaying two windows at once. Official Notice is taken that portable computing devices, which include equivalents to the general portable device of Richardson (see column 2 from line 57, of which the device of Figure 1 is *exemplary*) such as portable “tablet” computers, may be easily configured to display first and second windows running the same process or program performing substantially the same method *twice*. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to perform the first iteration of the method of claim 81 corresponding to the functionality of claim 77, and then perform the method a second time in a second window. Such a capability would have been within the ordinary skill in the art and would have been recognized as mere duplication or repetition, each iteration resulting predictably as performing each iteration separately.

#### Claim 82

Richardson teaches or suggests the method of claim 81 as above, and further *selecting a job method on the first screen and responsive to selection of the selected job method, storing an indication that said subordinate the worker failed to comply with the selected job method* (see column 4 from line 20).



Claim 83

Richardson teaches *wherein the step of storing data includes storing written descriptions of each job method of the first and second sets of job methods* (see column 3 from line 49: storage of job method instructions is necessarily inherent in the ability to display written instructions).

12. Claims 80, 87, and 88 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richardson as applied above to claim 77, and further in view of Hoshino (US Pat. 6,073,062).

Claims 80, 87 and 88

Richardson teaches claim 77 as above; however, Richardson does not teach *wherein said input is received from a sensor positioned on a vehicle used by said subordinate during said work session* or that the sensor provides input from the group consisting of *door data, global positioning data, engine data, weather data, ignition data, and mileage*, or that such sensor input is received *wirelessly*.

Hoshino expressly teaches in the art of monitoring drivers of vehicles, e.g. delivery truck drivers, speed monitoring (from a sensor) of a vehicle (a truck) input to a portable (mobile) device configured for receiving, displaying, and monitoring work instructions as in the art of Richardson and the present invention. Hoshino teaches sensors providing monitoring of potentially “wrong use” of transportation vehicles (see Background and column 2 at line 62). Richardson teaches confirming compliance with safety instructions by requiring the worker to provide input to questions (see column 4 from line 26). Richardson also teaches using the

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portable device for monitoring the workers' location (column 4 from line 5) as a step in ensuring the worker is at the proper location for the task assigned.

As Hoshino expressly teaches that automated monitoring of drivers following safety instructions is improved by using sensors signaling vehicle speed automatically to the portable device, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide such inputs to the portable device of Richardson, as this would have ensured reliability in the monitoring of a safety compliance instruction *maintain safe speed* in a in-vehicle application of task instruction and monitoring, as well as the attendant advantages of automating inputs to verify compliance.

As to the particular vehicle data sensed and receiving sensor input wirelessly, Hoshino expressly teaches sensing global positioning information wirelessly (column 8 from line 26) to ensure proper location of the vehicle according to driver instructions. It would have been obvious to one of ordinary skill in the art at the time of the invention, that sensing position *wirelessly* (GPS) would have provided additional verification to the *location* of the worker in the application of Richardson to vehicle-based task monitoring and instruction, as doing so would have provided additional, automated verification that the worker is performing the tasks assigned according to instructions provided, such as *proceed to [next] location* thereby ensuring that vehicle-based tasks are properly performed and recorded.

***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Kalantar et al. (US Pat. 6,954,737) teaches automated methods for facility maintenance, including tasking workers through portable devices receiving task instructions wirelessly.

Shephard et al. (US Pat. Appl. 2005/0053904) teaches automated methods for monitoring alertness of employees such as truck drivers, including providing tasks as tests for determining cognitive ability to assess a driver's performance level.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave Robertson whose telephone number is (571)272-8220. The examiner can normally be reached on 9 am to 5 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on (571) 272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dave Robertson/  
Examiner, Art Unit 3623

/Beth V. Boswell/  
Supervisory Patent Examiner, Art Unit 3623